

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID W. HULL,)	
)	Civil Action No. 08 - 1676
Plaintiff,)	
)	Magistrate Judge Lisa Pupo Lenihan
v.)	
)	
CHRIS EYSTER, Esquire,)	
)	
Defendant.)	

ORDER

Plaintiff has sent the court a letter disputing its Order of 12/15/08 granting Plaintiff's Motion to Proceed *In Forma Pauperis*. Apparently, Plaintiff believes that he should not have to pay the filing fee required by the court.

First of all, Plaintiff is advised that he is not to send correspondence to the Court. If Plaintiff has a dispute, it is to be filed with the clerk in the form of a motion. Because Plaintiff is proceeding pro se, his letter (undated) received by the Court on 1/7/09, docketed 1/8/09, will be construed by the Court as a Motion for Reconsideration of the Order granting IFP.

In ruling on a Motion to Proceed *In Forma Pauperis* the Court is governed by 28 U.S.C. § 1915. Subsection (a) provides that a court may authorize the commencement of an action without prepayment of fees if warranted. Subsection (b)(1) states:

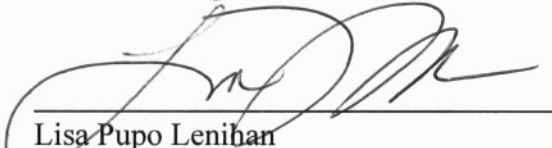
Notwithstanding subsection (a), if a prisoner brings a civil action... in forma pauperis, the prisoner shall be required to pay the full amount of the filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of-
(A) the average monthly deposits to the prisoner's account; or
(B) the average monthly balance to the prisoner's account.....

Subsection (b)(2) provides:

The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

The Court does not have discretion to allow an incarcerated plaintiff to file a civil lawsuit without paying the filing fee. As set forth above, "... the prisoner shall be required to pay the full amount of the filing fee." In the present case, the Court computed the average deposits into Plaintiff's inmate account, and the average balance in that account, for the last six months. Pursuant to the statute, the Court then computed that the initial filing fee would be 20% of the greater of those two amounts, or \$5.66, with the remainder payable in monthly installments if the amount in his inmate account exceeds \$10.00. Therefore,

IT IS HEREBY ORDERED, this 8th day of January, 2009, that Plaintiff's Motion for Reconsideration of the court's order regarding payment of the filing fee is **DENIED**.



Lisa Pupo Lenihan
United States Magistrate Judge

cc: DAVID W. HULL
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U.S.P. Allenwood
P.O. Box 3000
White Deer, PA 17887